

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

**LABORERS' INTERNATIONAL UNION  
OF NORTH AMERICA, LOCAL 310,**

*Charged Party,*

and

**KMU TRUCKING & EXCAVATING,  
SCHIRMER CONSTRUCTION CO.,  
PLATFORM CEMENT, INC., 21<sup>ST</sup>  
CENTURY CONCRETE  
CONSTRUCTION, INC., INDEPENDENT  
EXCAVATING, INC., AND DONLEY'S  
INC.**

*Employers/Charging Parties,*

and

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS,  
LOCAL 18,**

*Party-In-Interest.*

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Case Nos. 08-CD-109665, 08-CD-109666, 08-CD-109671, 08-CD-109683, 08-CD-109709, and 08-CD-114937

**POST-HEARING BRIEF  
OF LABORERS' LOCAL 310**

Laborers' International Union of North America, Local 310 ("Laborers") hereby incorporates the Employers' Post-Hearing Brief and adopts the Employers' arguments as its own. In the event the Board awards the work in dispute to Laborers' members, Laborers requests that the Board not restrict its award to the specific projects for which the Operating Engineers filed its grievances, engaged in proscribed activity, or made claims to the disputed work. This dispute represents an ongoing problem between the parties that will continue to occur until it is finally resolved on an area-wide basis. *E.g., Local 1184 Laborers (Massey Sand and Rock Co.)*, 198 NLRB 77, 79 (1972) (permitting an area-wide

award not limited to specific jobsites where there is evidence that similar disputes may occur in the future). The disputes related to skid steers and forklifts are not isolated in nature, and there is nothing peculiar about the Employers' work on the projects at issue that gave rise to these disputes. Similar disputes have occurred and are likely to recur. *See Laborers' Local 894 (Donley's, Inc.)*, 360 NLRB No. 20 (2014), slip op. at 5. *See also Int'l Union of Operating Engineers, Local 18 (Donley's)*, No. 08-CD-091637 (pending Board order). Operating Engineers has made it readily apparent that its union is willing to engage in proscribed activity—i.e., strike, hold cranes hostage, physically assault or threaten members of the Laborers—to extract work assignments from employers throughout its territorial jurisdiction. Further, the Board has issued a broad award in a situation where the charged party received the assignment of work and continuously threatened to picket if work was reassigned. *Southwest Regional Council of Carpenters (Standard Drywall, Inc.)*, 348 NLRB 1250, 1256 (2006). As such, it is appropriate for the Board to issue an area-wide award here.

### **CONCLUSION**

For the foregoing reasons, the Board should award the work in dispute to the employees represented by the Laborers on all projects with Local 18's territorial jurisdiction.

*Dated February 18, 2014 at the City of Cincinnati, Hamilton County, Ohio.*

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing brief was served this 18th day of February 2014 via the NLRB's electronic filing system upon the following:

NLRB REGION 08 – CLEVELAND, OH

And electronic mail upon the following:

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